
UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

United States District Court
Southern District of Texas

Toya Gibson,

Plaintiff,

versus

Louis DeJoy,

Defendant.

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Civil Action H-21-793

ENTERED

June 23, 2021

Nathan Ochsner, Clerk

Opinion on Dismissal

I. *Background.*

On December 4, 2017, the United States Postal Service hired Toya Gibson as a postal worker. She was hired to work a temporary holiday assignment to end on December 29, 2017.

On December 12, 2017, Gibson alleges that she was injured at work and went to a doctor.

On December 29, 2017, at the end of her assignment, Gibson's employment was terminated.

On March 27, 2020, Gibson filed a formal Equal Employment Opportunity complaint for: (a) sex discrimination, (b) disability discrimination, (c) age discrimination, and (d) retaliation. On April 13, 2020, the Commission denied her complaint as untimely since she missed the 45-day deadline by almost two years. She appealed – which was denied on September 21, 2020.

On March 5, 2021, Gibson sued Postmaster General Louis DeJoy for: (a) sex discrimination, (b) disability discrimination, (c) age discrimination, and (d) retaliation.

2. *Procedural Defects.*

Gibson's right to sue notice was included in her appeal denial. She had 90 days from when she received it to file this lawsuit. She filed this case on March 5, 2021. The latest she would have had to receive the right to sue notice was November 24, 2020, to still be within the statute of limitations. Gibson cannot give the date that she received the notice. For the court to have jurisdiction, it would have to assume that it took 64 days for her to receive the notice. Even though the court sympathizes with her current situation, this is too much time for the court to believe that it took.

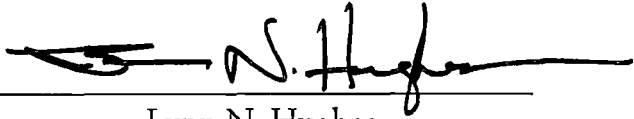
If the court were to assume that it took over two months for her to receive her right to sue notice, this court does not have the power to overcome her nearly two year procedural defect in the Commission's proceedings.

Because Gibson did not timely file suit, this court lacks jurisdiction, and her case will be dismissed.

3. *Conclusion.*

Toya Gibson's claims against Louis DeJoy will be dismissed.

Signed on June 23, 2021, at Houston, Texas.



Lynn N. Hughes
United States District Judge